



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 1**

**[MD Docket Nos. 17-134; FCC 17-111]**

**Assessment and Collection of Regulatory Fees for Fiscal Year 2017.**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) seeks further comment on the appropriate tiers for calculating terrestrial and satellite international bearer circuit fees, and the methodology by which cable television subscribers in multiple dwelling units (MDUs) are calculated.

**DATES:** comments are due on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and reply comments are due on or before **[INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments, identified by MD Docket No. 17-134, by any of the following methods listed in the Comment Filing Procedures section below.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Roland Helvajian, Office of Managing Director at (202) 418-0444.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM), FCC 17-111, MD Docket No. 17-134 adopted on September 1, 2017 and released on September 5, 2017. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12<sup>th</sup> Street, SW., Room CY-A257, Portals II, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc.,

Portals II, 445 12<sup>th</sup> Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. via their Web site, <http://www.bcpi.com>, or call 1-800-378-3160. This document is available in alternative formats (computer diskette, large print, audio record, and braille). Persons with disabilities who need documents in these formats may contact the FCC by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

## **I. PROCEDURAL MATTERS**

### **A. Ex Parte Rules Permit-But-Disclose Proceeding**

1. This Further Notice of Proposed Rulemaking (FY 2017 FNPRM) shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto,

must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

**B. Comment Filing Procedures**

2. Comments and Replies. Pursuant to §§1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.

- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

3. Availability of Documents. Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, CY-A257, Washington, DC 20554. These documents will also be available free online, via ECFS. Documents will be available electronically in ASCII, Word, and/or Adobe Acrobat.

4. Accessibility Information. To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document can also be downloaded in Word and Portable Document Format ("PDF") at: <http://www.fcc.gov>.

**C. Initial Regulatory Flexibility Analysis**

5. An initial regulatory flexibility analysis (IRFA) is contained in this summary. Comments to the IRFA must be identified as responses to the IRFA and filed by the deadlines for comments on the Notice. The Commission will send a copy of the Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

**D. Initial Paperwork Reduction Act of 1995 Analysis**

6. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

**II. INTRODUCTION**

7. In this Further Notice of Proposed Rulemaking, we seek further comment on the appropriate tiers for calculating terrestrial and satellite international bearer circuit fees raised in the FY 2016 NPRM and the FY 2017 NPRM and the methodology for calculating cable television subscribers in multiple dwelling units (MDUs) raised in the FY 2008 FNPRM.<sup>1</sup>

**A. International Bearer Circuits**

8. We seek further comment on this issue to have a more comprehensive record for adopting a new flat rate methodology for terrestrial and satellite IBCs and to revise the tiers for submarine cable systems. We also seek comment on the proposal to adopt a regulatory fee for all holders of section 214 international authorizations.

9. In the Submarine Cable Order, the Commission adopted a tiered system using gigabits per second (Gbps) increments (instead of 64 kbps<sup>2</sup>). The tiers adopted for submarine cable systems at that time were as follows: “large” systems, 20 Gbps or more, paying one payment unit each; systems with capacity equal to or greater than 10 Gbps but less than 20 Gbps, paying 50 percent of a payment

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<sup>1</sup> FY 2008 FNPRM, 73 FR 50285, 50290 at paragraphs 27-28.

<sup>2</sup> Sixty-four Kbps is the unit of measurement for voice grade circuits; submarine cable, terrestrial, and satellite international bearer circuits are now largely used for data.

unit; systems with capacity equal to or greater than 5 Gbps but less than 10 Gbps, paying 25 percent of a payment unit; systems with capacity equal to or greater than 2.5 Gbps but less than 5 Gbps, paying 12.5 percent of a payment unit; and systems with capacity below 2.5 Gbps paying 6.25 percent of a payment unit.<sup>3</sup>

10. We propose revising the tiers for submarine cable systems. We recognize that since we adopted the current tiers for submarine cable systems, the subsequent growth in the industry has moved all but two systems to the highest tier. We seek comment on whether we should revise the tiers. For example, we could adopt the following: systems with capacity of 10,000 Gbps or more, paying 16 payment units each; systems with capacity equal to or greater than 5,000 Gbps but less than 10,000 Gbps, paying eight payment units; systems with capacity equal to or greater than 2,500 Gbps but less than 5,000 Gbps, paying four payment units; systems with capacity equal to or greater than 1,000 Gbps but less than 2,500 Gbps, paying two payment units; and systems with capacity below 1,000 Gbps paying one payment unit. We seek comment on this proposal.

11. We also propose adopting, for terrestrial and satellite IBCs, the same five tiers used for submarine cable systems. Level 3 contends that two tiers would be sufficient for terrestrial and satellite IBCs to ensure that larger carriers pay a fair amount and to avoid being a barrier to entry for new providers.<sup>4</sup> AT&T opposes a two-tiered approach, contending that the disparities between the volumes of circuits held by different operators may be too large to structure a reasonable and fair system.<sup>5</sup> We seek comment on whether we should adopt the same tiers for common carrier and non-common carrier

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<sup>3</sup> Submarine Cable Order, 74 FR 22104, 22107 at paragraph 16 (May 12, 2009).

<sup>4</sup> Level 3 June 29, 2017 ex parte at 1.

<sup>5</sup> AT&T Reply Comments at 3.

terrestrial and satellite IBCs. Commenters proposing different tiers, including fewer or greater numbers of tiers, should explain how their proposals would be more equitable.

12. In its comments, the Coalition suggested that the Commission should adopt a fee methodology based on flat fee from every holder of an international section 214 authorization.<sup>6</sup> We seek further comment on this approach. Should a flat fee based on holding an international section 214 authorization replace only the terrestrial and satellite IBCs regulatory fees, with submarine cable IBCs continuing to be assessed on holding a cable landing license, or should it replace all IBC regulatory fees (i.e., terrestrial, satellite and submarine cable)? Would a flat fee on an international section 214 authorization reduce administrative burdens in collecting the IBC fee? The Coalition states that there are approximately 7,000 current international section 214 authorizations,<sup>7</sup> but CTIA notes that many of those are held by companies that do not actually provide international service and many companies hold multiple authorizations.<sup>8</sup> We seek comment on whether a fee should be applied to every holder of an international section 214 authorization regardless of the number of international section 214 authorizations held. Alternatively, should a set fee be applied to every international section 214 authorization? We also seek comment on whether there should be a different fee based on whether the international section 214 authorization is for resale only or for facilities-based services. We seek comment on whether a fee based on international section 214 authorizations should be calibrated based on size. For example, should there be one fee for resale, another up to a certain number of circuits, and a larger fee for any circuits above that amount? We seek comment on CITA's assertion that there are no additional, ongoing costs associated with international section 214 authorizations that are

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<sup>6</sup> Coalition Comments at 8-10.

<sup>7</sup> Coalition Comments at 9.

<sup>8</sup> CTIA Reply at 8.

not already covered by the application fees.<sup>9</sup> We seek comment on whether a fee applied to each section 214 authorization holder would capture most carriers that provide non-common carrier services or are there a number of carriers that provide only non-common carrier international services?

**B. Cable Television Services – Calculation of Number of Subscribers**

13. In the FY 2008 FNPRM, the Commission sought comment on the bulk rate calculation for determining the number of subscribers in a multiple dwelling unit or MDU.<sup>10</sup> The methodology for calculating the number of cable subscribers has since been the following:

Cable television system operators should compute their number of basic subscribers as follows:

Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Operators may base their count on “a typical day in the last full week” of December [year], rather than on a count as of December 31, [year].<sup>11</sup>

14. We recognize that the cable television industry has evolved significantly and the bulk rate calculation may not be reasonable or feasible today because of the many services offered today by cable providers. Specifically, with offerings of different packages and bundles, it may no longer be feasible to use a bulk rate calculation. Commenters should discuss if they use the bulk rate calculation or if they separately count each subscriber, even those living in MDUs.

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<sup>9</sup> CTIA Reply at 9.

<sup>10</sup> FY 2008 Further Notice of Proposed Rulemaking, 73 FR 50285, 50290 at paragraphs 27-28, August 26, 2008, (FY 2008 Further Notice).

<sup>11</sup> This is essentially the same methodology we sought comment on in the FY 2008 FNPRM.



15. We seek comment on whether we should keep the bulk rate calculation, or alternatively, whether we should modify the methodology to more accurately calculate the numbers of subscribers in a MDU. We seek comment on whether we should eliminate the bulk rate calculation due to changes in today's cable market.

### **III. INITIAL REGULATORY FLEXIBILITY ANALYSIS**

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>12</sup> the Commission prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (FNPRM). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on this Further Notice. The Commission will send a copy of the Further Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).<sup>13</sup> In addition, the FNPRM and IRFA (or summaries thereof) will be published in the Federal Register.<sup>14</sup>

#### **A. Need for, and Objectives of, the Further Notice**

2. The FNPRM seeks comment regarding (1) adopting a new five-tiered flat rate methodology for assessing regulatory fees for terrestrial and satellite international bearer circuits (IBCs), revising the tiers for submarine cable systems, and adopting a new fee category for all holders of section 214 international authority and (2) revising the calculation for cable television "Bulk Rate Customers."

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<sup>12</sup> 5 U.S.C. 603. The RFA, 5 U.S.C. 601-612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law Number 104-121, Title II, 110 Stat. 847 (1996).

<sup>13</sup> 5 U.S.C. 603(a).

<sup>14</sup> Id.

**B. Legal Basis**

3. This action, including publication of proposed rules, is authorized under sections (4)(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended.<sup>15</sup>

**A. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply**

4. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.<sup>16</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>17</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>18</sup> A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>19</sup>

5. **Small Entities.** Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive small entity size standards that could be directly affected by the proposals under consideration.<sup>20</sup> As of 2009, small businesses represented 99.9 percent of the 27.5 million businesses in the United States, according to

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<sup>15</sup> 47 U.S.C. 154(i) and (j), 159, and 303(r).

<sup>16</sup> 5 U.S.C. 603(b)(3).

<sup>17</sup> 5 U.S.C. 601(6).

<sup>18</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>19</sup> 15 U.S.C. 632.

<sup>20</sup> See 5 U.S.C. 601(3) through (6).

the SBA.<sup>21</sup> In addition, a “small organization is generally any not-for-profit enterprise which is independently owned and operated and not dominant in its field.”<sup>22</sup> In addition, the term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>23</sup> U.S. Census Bureau data for 2011 indicate that there were 90,056 local governmental jurisdictions in the United States.<sup>24</sup> We estimate that, of this total, as many as 89,327 entities may qualify as “small governmental jurisdictions.”<sup>25</sup> Thus, we estimate that most local government jurisdictions are small.

6. **Wired Telecommunications Carriers.** The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using

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<sup>21</sup> See SBA, Office of Advocacy, “Frequently Asked Questions,” available at [https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016\\_WEB.pdf](https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf).

<sup>22</sup> 5 U.S.C. 601(4).

<sup>23</sup> 5 U.S.C. 601(5).

<sup>24</sup> See SBA, Office of Advocacy, “Frequently Asked Questions,” available at [https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016\\_WEB.pdf](https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf).

<sup>25</sup> The 2011 U.S. Census Data for small governmental organizations are not presented based on the size of the population in each organization. As stated above, there were 90,056 local governmental organizations in 2011. As a basis for estimating how many of these 90,056 local governmental organizations were small, we note that there were a total of 729 cities and towns (incorporated places and civil divisions) with populations over 50,000. See [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table). If we subtract the 729 cities and towns that exceed the 50,000 population threshold, we conclude that approximately 789,237 are small.

facilities and infrastructure that they operate are included in this industry.”<sup>26</sup> The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.<sup>27</sup> Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.<sup>28</sup> Thus, under this size standard, the majority of firms in this industry can be considered small.

7. **Local Exchange Carriers (LECs).** Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS code category is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>29</sup> According to census data from 2012, there were 3,117 establishments that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.<sup>30</sup> The Commission estimates that most providers of local exchange service are small entities that may be affected by the rules proposed in the FNPRM.

8. **Incumbent LECs.** Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS code category is Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>31</sup> According to census data from 2012, 3,117 firms operated in that year.

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<sup>26</sup> See <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>27</sup> See 13 CFR 120.201, NAICS code 517110.

<sup>28</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>29</sup> 13 CFR 121.201, NAICS code 517110.

<sup>30</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>31</sup> 13 CFR 121.201, NAICS code 517110.

Of this total, 3,083 operated with fewer than 1,000 employees.<sup>32</sup> According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.<sup>33</sup> Of this total of 1,307 incumbent local exchange service providers, an estimated 1,006 operated with 1,500 or fewer employees.<sup>34</sup> Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules proposed in this Further Notice.

9. **Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.** Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS code category is Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>35</sup> U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.<sup>36</sup> Based on this data, the Commission concludes that the majority of Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers are small entities. According to the Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.<sup>37</sup> Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-

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<sup>32</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>33</sup> See Trends in Telephone Service, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (Trends in Telephone Service).

<sup>34</sup> See id.

<sup>35</sup> 13 CFR 121.201, NAICS code 517110.

<sup>36</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>37</sup> See Trends in Telephone Service, at Table 5.3.

Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.<sup>38</sup> Also, 72 carriers have reported that they are Other Local Service Providers.<sup>39</sup> Of this total, 70 have 1,500 or fewer employees.<sup>40</sup> Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules proposed in this FNPRM.

10. **Interexchange Carriers (IXCs).** Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS code category is Wired Telecommunications Carriers as defined in paragraph 6 of this IRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.<sup>41</sup> U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.<sup>42</sup> According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.<sup>43</sup> Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules proposed in this FNPRM.

11. **Prepaid Calling Card Providers.** Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate NAICS code category for prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of

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<sup>38</sup> Id.

<sup>39</sup> Id.

<sup>40</sup> Id.

<sup>41</sup> 13 CFR 121.201, NAICS code 517110.

<sup>42</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>43</sup> See Trends in Telephone Service, at Table 5.3.

telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual networks operators (MVNOs) are included in this industry.<sup>44</sup> Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.<sup>45</sup> U.S. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees.<sup>46</sup> Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.<sup>47</sup> All 193 carriers have 1,500 or fewer employees.<sup>48</sup> Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by rules proposed in this FNPRM.

12. **Local Resellers.** Neither the Commission nor the SBA has developed a small business size standard specifically for Local Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>49</sup> Census data for 2012 show that 1,341 firms provided resale services during that year.<sup>50</sup> Of that number, 1,341 operated with fewer than 1,000 employees.<sup>51</sup> Under this category

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<sup>44</sup> <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

<sup>45</sup> 13 CFR 121.201, NAICS code 517911.

<sup>46</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>47</sup> See Trends in Telephone Service, at Table 5.3.

<sup>48</sup> Id.

<sup>49</sup> 13 CFR 121.201, NAICS code 517911.

<sup>50</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>51</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

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and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.<sup>52</sup> Of this total, an estimated 211 have 1,500 or fewer employees.<sup>53</sup> Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules proposed in this Further Notice.

13. **Toll Resellers.** The Commission has not developed a definition for Toll Resellers. The closest NAICS code Category is Telecommunications Resellers, and the SBA has developed a small business size standard for the category of Telecommunications Resellers.<sup>54</sup> Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>55</sup> Census data for 2012 show that 1,341 firms provided resale services during that year.<sup>56</sup> Of that number, 1,341 operated with fewer than 1,000 employees.<sup>57</sup> Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.<sup>58</sup> Of this total, an estimated 857 have 1,500 or fewer employees.<sup>59</sup> Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by the rules proposed in the FNPRM.

(Continued from previous page) \_\_\_\_\_

pid=ECN\_2012\_US\_51SSSZ5&prodType=table.

<sup>52</sup> See Trends in Telephone Service, at Table 5.3.

<sup>53</sup> Id.

<sup>54</sup> 13 CFR 121.201, NAICS code 517911.

<sup>55</sup> Id.

<sup>56</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>57</sup> Id.

<sup>58</sup> Trends in Telephone Service, at Table 5.3.

<sup>59</sup> Id.



14. **Other Toll Carriers.** Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS code category is for Wired Telecommunications Carriers, as defined in paragraph 6 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>60</sup> Census data for 2012 shows that there were 3,117 firms that operated that year.<sup>61</sup> Of this total, 3,083 operated with fewer than 1,000 employees.<sup>62</sup> Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.<sup>63</sup> Of these, an estimated 279 have 1,500 or fewer employees.<sup>64</sup> Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by the rules proposed in the FNPRM

15. **Wireless Telecommunications Carriers (except Satellite).** This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.<sup>65</sup> The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census Data for 2012 show that there were 967 firms

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<sup>60</sup> 13 CFR 121.201, NAICS code 517110.

<sup>61</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>62</sup> Id.

<sup>63</sup> Trends in Telephone Service, at Table 5.3.

<sup>64</sup> Id.

<sup>65</sup> NAICS code 517210. See <http://www.census.gov/cgi-bin/ssd/naics/naicsrch>.

that operated for the entire year.<sup>66</sup> Of this total, 955 firms had fewer than 1,000 employees.<sup>67</sup> Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services.<sup>68</sup> Of this total, an estimated 261 have 1,500 or fewer employees.<sup>69</sup> Thus, using available data, we estimate that the majority of wireless firms can be considered small and may be affected by rules proposed in this FNPRM.

16. **Television Broadcasting.** This Economic Census category “comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.”<sup>70</sup> These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for Television Broadcasting firms: those having \$38.5 million or less in annual receipts.<sup>71</sup> The 2012 Economic Census reports that 751 television broadcasting firms operated during that year. Of that number, 656 had annual receipts of less than \$25

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<sup>66</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>67</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>68</sup> Trends in Telephone Service, at Table 5.3.

<sup>69</sup> Id.

<sup>70</sup> U.S. Census Bureau, 2012 NAICS code Economic Definitions, <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>71</sup> 13 CFR 121.201, NAICS code 515120.

million per year. Based on that Census data we conclude that a majority of firms that operate television stations are small. The Commission has estimated the number of licensed commercial television stations to be 1,383.<sup>72</sup> In addition, according to Commission staff review of the BIA Advisory Services, LLC's Media Access Pro Television Database on March 28, 2012, about 950 of an estimated 1,300 commercial television stations (or approximately 73 percent) had revenues of \$14 million or less.<sup>73</sup> We therefore estimate that the majority of commercial television broadcasters are small entities.

17. In assessing whether a business concern qualifies as small under the above definition, business (control) affiliations<sup>74</sup> must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of "small business" is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive to that extent.

18. In addition, the Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 396.<sup>75</sup> These stations are non-profit, and therefore

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<sup>72</sup> See FCC News Release, "Broadcast Station Totals as of March 31, 2017," April 11, 2017; [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-344256A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-344256A1.pdf).

<sup>73</sup> We recognize that BIA's estimate differs slightly from the FCC total given supra.

<sup>74</sup> "[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has to power to control both." 13 CFR 21.103(a)(1).

<sup>75</sup> See FCC News Release, "Broadcast Station Totals as of March 31, 2017," April 11, 2017; [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-344256A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-344256A1.pdf).

considered to be small entities.<sup>76</sup> There are also 2,528 low power television stations, including Class A stations (LPTV).<sup>77</sup> Given the nature of these services, we will presume that all LPTV licensees qualify as small entities under the above SBA small business size standard.

19. **Radio Broadcasting.** This Economic Census category “comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.”<sup>78</sup> The SBA has established a small business size standard for this category, which is: such firms having \$38.5 million or less in annual receipts.<sup>79</sup> U.S. Census data for 2012 show that 2,849 radio station firms operated during that year.<sup>80</sup> Of that number, 2,806 operated with annual receipts of less than \$25 million per year.<sup>81</sup> According to Commission staff review of BIA Advisory Services, LLC’s Media Access Pro Radio Database on March 28, 2012, about 10,759 (97%) of 11,102 commercial radio stations had revenues of \$38.5 million or less. Therefore, the majority of such entities are small entities.

20. In assessing whether a business concern qualifies as small under the above size standard, business affiliations must be included.<sup>82</sup> In addition, to be determined to be a “small

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<sup>76</sup> See generally 5 U.S.C. 601(4), (6).

<sup>77</sup> See FCC News Release, “Broadcast Station Totals as of March 31, 2017,” April 11, 2017; [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-344256A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-344256A1.pdf).

<sup>78</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>79</sup> 13 CFR 121.201, NAICS code 515112.

<sup>80</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>81</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>82</sup> “Concerns and entities are affiliates of each other when one controls or has the power to control the other, or a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists.” 13 CFR 121.103(a)(1) (an SBA regulation).

business,” the entity may not be dominant in its field of operation.<sup>83</sup> It is difficult at times to assess these criteria in the context of media entities, and our estimate of small businesses may therefore be over-inclusive.

21. **Cable Television and other Subscription Programming.** This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature, e.g., limited format, such as news, sports, education, or youth-oriented. These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.<sup>84</sup> The SBA has established a size standard for this industry of \$38.5 million or less. Census data for 2012 shows that there were 367 firms that operated that year.<sup>85</sup> Of this total, 319 operated with annual receipts of less than \$25 million.<sup>86</sup> Thus under this size standard, the majority of firms offering cable and other program distribution services can be considered small and may be affected by rules proposed in this FNPRM.

22. **Cable Companies and Systems.** The Commission has developed its own small business size standards for cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers nationwide.<sup>87</sup> Industry data indicate that there are currently 4,413

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<sup>83</sup> 13 CFR 121.102(b) (an SBA regulation).

<sup>84</sup> <https://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>85</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ5&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table).

<sup>86</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US-51SSSZ5&prodType=Table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US-51SSSZ5&prodType=Table).

<sup>87</sup> 47 CFR 76.901(e).

active cable systems in the United States.<sup>88</sup> Of this total, all but ten cable operators nationwide are small under the 400,000-subscriber size standard.<sup>89</sup> In addition, under the Commission's rate regulation rules, a "small system" is a cable system serving 15,000 or fewer subscribers.<sup>90</sup> Current Commission records show 4,413 cable systems nationwide.<sup>91</sup> Of this total, 3,900 cable systems have less than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records.<sup>92</sup> Thus, under this standard as well, the Commission estimates that most cable systems are small entities.

23. **Cable System Operators (Telecom Act Standard).** The Communications Act also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."<sup>93</sup> There are approximately 53 million cable video subscribers in the United States today.<sup>94</sup> Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate.<sup>95</sup> Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard.<sup>96</sup> The Commission neither requests nor

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<sup>88</sup> See Eighteenth Competition Report, 32 FCC Rcd at 584, para. 39 (citing the Commission's Cable Operations and Licensing Systems (COALS) database).

<sup>89</sup> See <https://www.snl.com/web/client?auth=inherit#industry/topCableMSOs> (last visited July 18, 2017).

<sup>90</sup> 47 CFR 76.901(c).

<sup>91</sup> See footnote 2, supra.

<sup>92</sup> August 5, 2015 report from the Media Bureau based on its research in COALS. See [www.fcc.gov/coals](http://www.fcc.gov/coals).

<sup>93</sup> 47 CFR 76.901 (f) and notes ff. 1, 2, and 3.

<sup>94</sup> See NCTA Industry Data, Cable's Customer Base, available at <https://www.ncta.com/industry-data> (last visited July 6, 2017).

<sup>95</sup> 47 CFR 76.901(f) and notes ff. 1, 2, and 3.

<sup>96</sup> See <https://www.snl.com/web/client?auth=inherit#industry/topCableMSOs> (last visited July 18, 2017).

collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million.<sup>97</sup> Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

24. **Direct Broadcast Satellite (DBS) Service.** DBS Service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic dish antenna at the subscriber's location. DBS is now included in SBA's economic census category "Wired Telecommunications Carriers." The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VOIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.<sup>98</sup> The SBA determines that a wireline business is small if it has fewer than 1500 employees.<sup>99</sup> Census data for 2012 indicate that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with

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<sup>97</sup> The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to 47 CFR 76.901(f) of the Commission's rules. See 47 CFR 76.901(f).

<sup>98</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>99</sup> NAICs code 517110; 13 CFR 121.201.

fewer than 1,000 employees.<sup>100</sup> Based on that data, we conclude that the majority of wireline firms are small under the applicable standard. However, only two entities provide DBS service, AT&T and DISH Network. AT&T and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we conclude that DBS service is provided only by large firms.

25. **All Other Telecommunications.** “All Other Telecommunications” is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or Voice over Internet Protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.<sup>101</sup> The SBA has developed a small business size standard for “All Other Telecommunications,” which consists of all such firms with gross annual receipts of \$32.5 million or less.<sup>102</sup> For this category, census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than \$25 million.<sup>103</sup> Thus, a majority of “All Other Telecommunications” firms potentially affected by the proposals in the *Notice* can be considered small.

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<sup>100</sup> [http://factfinder.census.gov/faces/tableservices.jsf/pages/productview.xhtml?pid+ECN\\_2012\\_US.51SSSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices.jsf/pages/productview.xhtml?pid+ECN_2012_US.51SSSZ4&prodType=table).

<sup>101</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>102</sup> 13 CFR 121.201; NAICs code 517919.

<sup>103</sup> [http://factfinder.census.gov/faces/tableservices.jsf/pages/productview.xhtml?pid+ECN\\_2012\\_US.51SSSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices.jsf/pages/productview.xhtml?pid+ECN_2012_US.51SSSZ4&prodType=table).



26. **RespOrgs.** Responsible Organizations, or RespOrgs, are entities chosen by toll free subscribers to manage and administer the appropriate records in the toll-free Service Management System for the toll-free subscriber.<sup>104</sup> Although RespOrgs are often wireline carriers, they can also include non-carrier entities. Therefore, in the definition herein of RespOrgs, two categories are presented, i.e., Carrier RespOrgs and Non-Carrier RespOrgs.

27. **Carrier RespOrgs.** Neither the Commission, the U.S. Census, nor the SBA have developed a definition for Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Carrier RespOrgs are Wired Telecommunications Carriers,<sup>105</sup> and Wireless Telecommunications Carriers (except satellite).<sup>106</sup>

28. The U.S. Census Bureau defines **Wired Telecommunications Carriers** as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.<sup>107</sup> The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such

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<sup>104</sup> See 47 CFR 52.101(b).

<sup>105</sup> 13 CFR 121.201, NAICS code 517110.

<sup>106</sup> Id.

<sup>107</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

companies having 1,500 or fewer employees.<sup>108</sup> Census data for 2012 show that there were 3,117 Wired Telecommunications Carrier firms that operated for that entire year. Of that number, 3,083 operated with less than 1,000 employees.<sup>109</sup> Based on that data, we conclude that most Carrier RespOrgs that operated with wireline-based technology are small.

29. The U.S. Census Bureau defines **Wireless Telecommunications Carriers (except satellite)** as establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services.<sup>110</sup> The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.<sup>111</sup> Census data for 2012 show that 967 Wireless Telecommunications Carriers operated in that year. Of that number, 955 operated with less than 1,000 employees.<sup>112</sup> Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireless-based technology are small.

30. **Non-Carrier RespOrgs.** Neither the Commission, the U.S. Census, nor the SBA have developed a definition of Non-Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Non-Carrier RespOrgs are “Other Services Related to Advertising”<sup>113</sup> and “Other Management Consulting Services.”<sup>114</sup>

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<sup>108</sup> 13 CFR 120.201, NAICS code 517110.

<sup>109</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table).

<sup>110</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>111</sup> 13 CFR 120.201, NAICS code 517120.

<sup>112</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table).

<sup>113</sup> 13 CFR 120.201, NAICS code 541890.

<sup>114</sup> 13 CFR 120.201, NAICS code 541618.

31. The U.S. Census defines **Other Services Related to Advertising** as comprising establishments primarily engaged in providing advertising services (except advertising agency services, public relations agency services, media buying agency services, media representative services, display advertising services, direct mail advertising services, advertising material distribution services, and marketing consulting services).<sup>115</sup> The SBA has established a size standard for this industry as annual receipts of \$15 million dollars or less.<sup>116</sup> Census data for 2012 show that 5,804 firms operated in this industry for the entire year. Of that number, 5,249 operated with annual receipts of less than \$10 million.<sup>117</sup> Based on that data we conclude that the majority of Non-Carrier RespOrgs who provide toll-free number (TFN)-related advertising services are small.

32. The U.S. Census defines **Other Management Consulting Services** as establishments primarily engaged in providing management consulting services (except administrative and general management consulting; human resources consulting; marketing consulting; or process, physical distribution, and logistics consulting). Establishments providing telecommunications or utilities management consulting services are included in this industry.<sup>118</sup> The SBA has established a size standard for this industry of \$15 million dollars or less.<sup>119</sup> Census data for 2012 show that 3,683 firms operated in this industry for that entire year. Of that number, 3,632 operated with less than \$10 million in annual

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<sup>115</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>116</sup> 13 CFR 120.201, NAICS code 541890.

<sup>117</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table).

<sup>118</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>119</sup> 13 CFR 120.201, NAICS code 514618.

receipts.<sup>120</sup> Based on this data, we conclude that a majority of non-carrier RespOrgs who provide TFN-related management consulting services are small.<sup>121</sup>

33. In addition to the data contained in the four (see above) U.S. Census NAICS code categories that provide definitions of what services and functions the Carrier and Non-Carrier RespOrgs provide, Somos, the trade association that monitors RespOrg activities, compiled data showing that as of July 1, 2016, there were 23 RespOrgs operational in Canada and 436 RespOrgs operational in the United States, for a total of 459 RespOrgs currently registered with Somos.

**B. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements**

34. This FNPRM does not propose any changes to the Commission's current information collection, reporting, recordkeeping, or compliance requirements.

**C. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

35. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance,

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<sup>120</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table).

<sup>121</sup> The four NAICS code-based categories selected above to provide definitions for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs.

rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.<sup>122</sup>

36. The FNPRM seeks comment regarding: (1) adopting a new five-tiered flat rate methodology for assessing regulatory fees for terrestrial and satellite international bearer circuits (IBCs), revising the current five-tiered methodology for submarine cable systems, and adopting a new fee category for all holders of section 214 international authority and (2) revising the calculation for cable television “Bulk Rate Customers.” The proposals to adopt a flat five-tier methodology for terrestrial and satellite IBCs might provide relief to smaller entities that would fall into the lowest tier. The proposal to revise the calculation for Bulk Rate Customers for cable television, in multiple dwelling units (MDUs), may affect small cable operators who provide service to MDUs. We are seeking comment on this issue so that we can improve the calculation of customers in MDUs.

**D. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules**

37. None.

**IV. ORDERING CLAUSE**

38. Accordingly, IT IS ORDERED that, pursuant to section 9 of the Communications Act of 1934, as amended, 47 U.S.C. 159, this Further Notice of Proposed Rulemaking IS HEREBY ADOPTED.

FEDERAL COMMUNICATIONS COMMISSION

Katura Jackson,

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<sup>122</sup> 5 U.S.C. 603(c)(1) through (c)(4).

Federal Register Liaison Officer

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